

REMARKS/ARGUMENTS

Claims 22, 25, 27, 28, 30 and 32-43 are pending in the present application. Claims 22, 25, 27, 28, 32, 33 and 38-43 stand as rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwanenberg (USPN 6,095,381) in view of Baudin et al. (USPN 6,089,411). Claims 34-37 are objected to as being dependent on a rejected base claims but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, Applicant has made an amendment to independent claims 42 and 43 so as to place the application in proper form for allowance. Applicant respectfully requests entry of the amendment to claims 42 and 43. Applicant further asserts this amendment does not require further search by the Examiner. In addition, Applicant traverses the rejection of independent claims 22, 42 and 43 and asserts the following argument in support of allowance of all pending claims.

Amendment to Independent claims 42:

Applicant respectfully requests entry of the following amendment to independent claim 42:

"... wherein said slitting comprises three slits which are ~~preferably~~ configured so as to be star-shaped and which are ~~preferably~~ arranged at the same angular spacing from one another."

Applicant asserts that this amendment places independent claim 42 in proper form for allowance as the May 14, 2008 Office Action, pages 3-4, state:

"Schwanenberg fail[s] to show the valve slits configured in a star-shape and with the same angular spacing, note that the rejected claims

only required the slits to be 'preferably configured as to be star-shaped' and 'preferably arranged at the same angular spacing' in the same manner the slits of the valve of Schwanenberg are."

Consequently, Applicant respectfully requests allowance of claim 42 as the amendment places independent claim 42 in proper form for allowance.

Amendment to Independent Claim 43:

Applicant respectfully requests entry of the following amendment to independent claim 43:

"... the connecting wall is thin and non-rigid and in the transition zone between the membrane and the connecting wall an ~~angular~~ annular protrusion projects away from the container."

This amendment is offered to correct a clerical error and place claim 43 into conformance with the original specification at page 24, the beginning of the first full paragraph stating "Annular protrusion 92 ...". Consequently, the amendment is fully supported by the original specification. No new matter has been added and Applicant respectfully requests allowance of amended claim 43.

Argument in Support of Independent Claim 22:

Independent claim 22 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwanenberg (USPN 6,095,381) in view of Baudin et al. (USPN 6,089,411).

Claim 22 requires in part:

"Wherein an area [84] is adjoined to said annular section [98] of connecting wall, said area [84]

extending upwardly in a curved fashion at an obtuse angle from the plane of the support segment [86] and the annular section [98], away from the container interior when the valve is affixed to the container."

These features are shown in Figure 8 of the specification.

The May 14, 2008 Office Action argues that Figure 13 of Schwanenberg is identical to Applicant's Figure 1 and therefore the self-closing valve of pending claim 22 including the above identified features is anticipated by Schwanenberg (Page 3, paragraph 5, fourth sentence).

Applicant cannot agree with this argument. Pending claim 22 refers to the embodiment of Figure 8 of the application which shows an obtuse angle between annular section [98] and said area [84]. This embodiment is claimed as claim 22 requires "an obtuse angle."

Schwanenberg's Figure 13 (and also 14) shows an acute angle between annular section (area of reinforcement ring 24) and adjacent area [4].

Schwanenberg's adjacent area [4] is also not "curved" as is required by Applicant's claim 22. Furthermore, Schwanenberg's adjacent area [4] does not merge into a hinge member as is required by Applicant claim 22. ("the upwardly curved area merges with a hinge member.")

The September 29, 2008 Advisory Action argues that "claim 22 cannot be directed to the embodiment of Fig. 8 because this embodiment lacks annular section 13".

Applicant cannot agree with this argument. Pending claim 22 is directed to the embodiment of Fig. 8 wherein the connecting wall between the support segment (86) and the membrane (82) also includes an annular section (98) and this

annular section is arranged in a common plane with the support segment (86). Furthermore an area (84) is adjoined to the annular section (98), which extends upwardly in a curved fashion at an obtuse angle with respect to the plane of the support segment (86) and the annular section (98). This upwardly curved area (84) merges with a hinge member into the membrane (82). As already mentioned before we are of the opinion that a self-closing valve showing these features is not anticipated by Schwanenberg.

In Figs. 1 to 8 of Schwanenberg the connected wall between support segment (retaining border 3) and membrane (2; closure head 5) comprises a first area (9') is not in a "common plane" with the support segment (3) as is required by claim 22. Furthermore, in Figs. 1 to 8 of Schwanenberg the connecting wall between the support segment (3) and the membrane (5) is supported by a body (1). This is a further difference between the inventive embodiment of Fig. 8 of the application and Schwanenberg. This difference has not been featured yet.

Therefore, Applicant asserts that Schwanenberg does not teach each and every limitation of Applicant's claim 22. Consequently Applicant asserts the inventive self-closing device of pending claim 22 is not rendered obvious by Schwanenberg in view of Baudin et al. For these reasons Applicant believes independent claim 22 is in proper form for allowance and respectfully requests allowance of said claim. Additionally, claims 25, 27-28, 30 and 32-41 depend on claim 22 and for at least this reason are also believed to be in proper form for allowance and Applicant respectfully requests allowance of said claims.

Argument in Support of Amended Independent Claim 42:

Independent claim 42 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwanenberg in view of Baudin et al.

Amended claim 42 requires in-part:

"said membrane having a constant wall thickness; and wherein said slitting comprises three slits which are ~~preferably~~ configured so as to be star-shaped and which are ~~preferably~~ arranged at the same angular spacing from one another".

It is believed that the Examiner admits that Schwanenberg does not teach "valve slits configured in a star shape and with the same angular spacing". (See May 14, 2008 Office Action pages 3-4).

The May 14, 2008 Office Action argues that Schwanenberg comprises "up to five slits" (page 3, paragraph 5, fifth sentence). Applicant respectfully disagrees with this statement. In Applicant's view Schwanenberg discloses exactly five-slits. Using three slits instead of five slits results in higher reset forces of the individual flaps (Applicant's element 20, Fig. 2). Therefore, the membrane does close more safely and more tightly than self-closing valves of prior art.

Baudin does not cure Schwanenberg as Baudin does not teach slitting in the meaning of the invention. The inventive slits are capable of completely and tightly closing. In contrast the slits of Baudin have a width of 0.05 to 1.0 mm (Col. 6, lines 59-61) and therefore are not capable of tightly closing.

Therefore Applicant asserts that the combination of Schwanenberg and Baudin does not teach each and every limitation of Applicant's claim 42. Consequently Applicant asserts the inventive self-closing device of pending claim 22 is not

rendered obvious by Schwanenberg in view of Baudin. For these reasons Applicant believes independent claim 42 is in proper form for allowance and respectfully requests allowance of said claims.

Argument in support of amended independent claim 43:

Independent claim 43 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwanenberg in view of Baudin et al. Amended claim 43 requires in part:

"the connecting wall is thin and non-rigid and in the transition zone between the membrane and the connecting wall and annular protrusion projects away from the container."

As a result of this annular protrusion [92] the connecting wall is attached to the sidewall of the membrane, e.g., (Element 60, Figure 5) with an offset from the upper side (which faces away from the container). This lends to a soft hinging of the membrane relative to its connecting wall [84].

The May 14, 2008 Office Action does not address this feature. Nowhere does the Office Action assert that the prior art teaches "annular protrusion project[ing] away from the container."

The September 29, 2008 Advisory Action argues that "Schwanenberg shows an annular protrusion 24 projecting away from the container as claimed in claim 43".

Applicant cannot agree with this argument. Pending 43 is directed to the embodiment of Fig. 8 of the application. A basic feature of pending claim 43 is an annular protrusion (92) in the transition zone between the connecting wall (98, 84) and the membrane (82). We do not agree with Examiner's opinion that such an annular protrusion is known from Schwanenberg by element

(24). Element (24) of Schwanenberg refers to a reinforcement ring, which is arranged in the connecting wall between the support segments (31, 32) and the membrane (5). The reinforcement ring (24) of Schwanenberg is not arranged in the transition zone between the connecting wall and the membrane (5). Please note that Schwanenberg indicates the transition zone by reference sign (10) and there is no annular protrusion in this transition zone.

Therefore, Applicant asserts that the combination of Schwanenberg and Baudin does not teach the limitations of amended independent claim 43. Consequently Applicant asserts the inventive self-closing device of the pending claim 43 is not rendered obvious by Schwanenberg in view of Baudin. For these reasons Applicant believes independent claim 43 is in proper form for allowance and respectfully requests allowance of said claim.


In view of the above arguments Applicant respectfully requests allowance of all pending claims.

CONCLUSION

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200.

All fees or extensions of time believed to be due in connection with this response are attached hereto; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'TJZ', with a large, stylized flourish extending from the top left.

Timothy J. Zarley
Reg. No. 45,253
ZARLEY LAW FIRM, P.L.C
Capital Square
400 Locust Street, Suite 200
Des Moines, IA 50309-2350
Phone No. (515) 558-0200
Fax No. (515) 558-7790
Customer No. 34082
Attorneys of Record

- TJZ/CAP/jlk -